PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

October 22, 2003

Agenda ID #2897
Ratesetting

TO: PARTIES OF RECORD IN RULEMAKING 01-10-024

This is the draft decision of Administrative Law Judge (ALJ) Halligan. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at http://www.cpuc.ca.gov. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:jva

Attachment

Decision **DRAFT DECISION OF ALJ HALLIGAN (Mailed 10/22/03)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanism For Generation Procurement and Renewable Resource Development.	Rulemaking 01-10-024 (Filed October 25, 2001)

O P I N I O N

Summary

This decision grants, in part, Southern California Edison's (SCE's) Petition for Modification of Decision (D.) 02-12-069. The requested relief we grant is to (1) eliminate the requirement that SCE obtain California Department of Water Resources (DWR) agreement to a forward sales plan, and (2) eliminate the requirement that SCE comply with DWR's credit criteria. In all other respects, SCE's Petition is denied.

Discussion

In D.02-12-069, the Commission adopted an Operating Order under which SCE, Pacific Gas and Electric Company (PG&E) and San Diego Gas and Electric Company (SDG&E), collectively, the "utilities", were required to perform contract administration services on behalf of the DWR as of January 1, 2003, pursuant to Assembly Bill (AB) X1-1. On March 7, 2003, SCE filed a Petition for Modification of D.02-12-069. In its Petition, SCE seeks to modify D.02-12-069 on the following seven issues:

- Modify the decision to include the purchase of a utility's residual net short requirement and the sale of its residual net long surplus supply within the scope of SCE's adopted procurement plan for purposes of the Commission's compliance review.

- Delete the provision that requires SCE to obtain DWR agreement to a forward sales plan.

- Allow SCE to make surplus sales using sales agreements between SCE and the counterparties.

- Require DWR to provide credit support for the portion of the portfolio sales attributable to its resources.

- Modify Exhibit F of the Operating Order to delete certain categories of data that SCE believes are burdensome and unnecessary.

- Establish a six-month time limit for issuing decisions in its annual reasonableness reviews of SCE's contract administration and least-cost dispatch activities.

- Delete the requirement that SCE defer to DWR's credit criteria for purposes of surplus sales.

On April 7, 2003, PG&E filed a response to SCE's Petition. Also, on April 7, 2003, DWR submitted a Memorandum to President Peevey commenting on SCE's Petition. PG&E supports certain aspects of SCE's proposed modifications and opposes others. DWR is opposed to certain modifications. DWR also suggests additional modifications.[1]

[1] To the extent DWR's Memorandum suggest additional modifications to D.02-12-069 that were not raised by SCE's Petition, those comments are not responsive to the Petition and are not addressed in this Decision.

1. The Scope of Reasonableness Review

SCE states that D.02-12-069 is unclear with regard to the scope of review of the utilities' administration of DWR contracts. SCE believes that the adopted definition of the "reasonable manager" standard extends the scope of Commission review beyond administration of DWR contracts to include Commission review of purchase and sale activities conducted under the utilities' approved procurement plans. SCE acknowledges the difference between reasonableness review of DWR contract administration and compliance review of the utilities' procurement activities under approved procurement plans, but believes that in adopting a "reasonable manager" standard for determining whether utility administration of DWR contracts has been prudent, the Commission, in footnote 31 of D.02-12-069 has inappropriately extended the scope of the reasonableness review of DWR contract administration to include "the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs." SCE argues that the purchase and sale activity contemplated by the definition in footnote 31 of D. 02-12-069 comes under the provisions of SCE's adopted procurement plan, even when it involves sales from the integrated SCE/DWR portfolio. SCE also argues that this "extension" of the "reasonable manager" standard is inconsistent with AB 57. SCE requests that the Commission modify D.02-12-069 to clarify that the disposition of economic long power and the purchase of economic short power will be included in the Commission's quarterly compliance review of transactions conducted under the utility's approved procurement plans.

PG&E agrees with SCE that the sentence "In administering contracts, the utilities have the responsibility to dispose of economic long power and purchase economic short power in a manner that minimizes ratepayer costs" establishes these activities as activities within the scope of the utilities' procurement plans.

DWR disagrees. DWR believes that D.02-12-69 clearly states that the Commission's regulatory oversight of the utilities' administration of DWR contracts would be performed on an ongoing basis separate and apart from review of the utilities' forward looking plans. DWR argues that reviewing SCE's surplus energy sales, which include power derived from allocated DWR contracts, along with SCE's procurement plans is not consistent with D.02-12-069 or D.02-09-053. DWR urges the Commission to reject SCE's proposed modification and reaffirm that the review of SCE's administration of allocated contracts will occur separately from the annual reviews of the utilities' portfolio management decisions.

In D.02-09-053, we stated that "The reasonableness of the utilities' administration of the DWR contracts we allocate today, including how they elect to dispatch the contract power quantities relative to other resources in their portfolio, should be at issue over the life of the contracts." We also stated that the forum for this review should be the annual procurement proceedings, where compliance with the adopted procurement plan is reviewed as a whole."[2] Subsequent to D.02-09-053, we approved D.02-10-062, which, among other things, established the Commission processes through which utility activities

[2] D.02-09-053, *mimeo.*, p.7.

conducted under the approved procurement plans would be reviewed. First, D.02-10-062 required the utilities to file each quarter's procurement transactions that conform to the approved plan by advice letter and directed the Commission's Energy Division to review the transactions to ensure that the prices, terms, types of products, and quantities of each product conform to the approved plan. Next, D.02-10-062 adopted an annual proceeding to review the reasonableness of contract administration and least-cost dispatch.[3] These two different compliance processes were again discussed in D.03-06-067. [4]

D.02-10-062 also adopted specific up-front standards for utility behavior with respect to utility procurement and contract administration. In D.02-12-069 we reiterated our approval of the standards previously adopted in D.02-10-062, with the clarification that the standards include a "least-cost" dispatch requirement. We also noted that "prohibited utility conduct under this standard includes any action that results in preference to utility retained generation resources or the utility's own negotiated contracts" and that "our definition of prudent contract administration and least-cost dispatch is the same as that adopted in D.02-12-074." In footnote 31 of D.02-12-069, we provided a detailed definition of "least-cost dispatch," which also appears in D.02-12-074, stating, in pertinent part, "prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so." We also stated that: "In administering contracts, the utilities have the responsibility

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[3] D.02-10-062, Finding of Fact 25.

[4] D.03-06-067, at 8.

to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs."

This sentence was not intended to modify or shift the scope of Commission review of utility contract administration. As the Commission recently stated, "[T]his sentence should be read to mean that the prudence of each utility's decision to dispatch resources contained in the integrated DWR-Investor-Owned Utility portfolio and execute market transactions for economic purchases is part of the review under SOC #4."[5]

Consistent with the requirements of AB 57 and Senate Bill (SB) 1976,[6] the Commission will approve the utilities procurement plans, including up-front standards of minimum behavior, and will conduct compliance reviews to evaluate utility compliance with the approved procurement plan. Pursuant to D.02-10-062, this review consists in part of (1) the utilities filing quarterly compliance advice letters detailing all transactions in compliance with the adopted plan, and (2) annual review of the utilities' contract administration and least-cost dispatch activities conducted as part of each utility's annual Energy Resource Recovery Account application.[7]

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[5] D.03-06-067, at 9.

[6] AB 57 and SB 1976 added identical versions of Section 454.5 to the Public Utilities Code, except that SB 1976 requires an electrical corporation to resume procurement 60 days after the Commission adopts a procurement plan for that corporation, rather than 90 days.

[7] See D.02-10-062, page 65 and D.02-10-069, at page 63.

We agree with SCE on the limited point that our review of utility administration of DWR contracts need not include a review of the specific products purchased to meet the utilities' residual net short, since to our knowledge none of the DWR contracts requires the utilities to purchase additional energy or capacity beyond the amount already contracted for. However, our review of the utilities' administration of DWR contracts and least-cost dispatch necessarily includes a review of the utilities' decisions regarding the disposition of excess energy, as well as a review of economic short purchases. Therefore, we disagree with SCE's contention that all surplus sales and economic net short purchase decisions fall exclusively within the provisions of SCE's adopted procurement plan, and we reject SCE's request for a finding that this contract administration and least-cost dispatch activity is covered by the Energy Division's quarterly review of the utilities' compliance with the adopted procurement plans.

In addition, we emphasize that, despite SCE's and PG&E's repeated claims to the contrary, review of the utilities' conduct in this area is and will be lawfully conducted by the Commission as part of our responsibility under AB 57 to "assure that each electrical corporation optimizes that value of its overall supply portfolio, including DWR contracts…for the benefit of its bundled service customers"[8] and our responsibility under Pub. Util. Code § 451 to ensure that utilities provide service at just and reasonable rates.

[8] AB 57, Section 1(d).

As we stated in our decision denying the utilities' requests for rehearing of D.02-10-062 and D.02-12-074, "least-cost dispatch is an up-front standard that is included in the procurement plans. Any subsequent review of dispatch merely ensures that the utilities have complied with the approved procurement plans. Nothing in Section 454.5 prohibits the Commission's review of utility actions to determine whether a utility complied with an approved procurement plan."[9]

2. Sales Plans

SCE identifies as its second issue an inconsistency between the discussion on page 39 of D.02-12-069 and Exhibit A of the approved Operating Order. Page 39 of D.02-12-069 states: "We agree with DWR that forward sales should be included in the pro rata calculation if the sales emanate from a DWR Contract. However, we disagree that the utilities should consult with DWR before executing the forward sale of a DWR allocated contract quantity made in excess of 30 days. We see no reason for DWR to approve any forward sale. All forward sales should be included in the pro rata calculation." In contrast, Paragraph III C of Exhibit A of the Operating Order requires SCE to prepare monthly and weekly sales plans for DWR review that addresses "balance of the month, weekly, balance of week and other short-term sales." This provision goes on to state that to the extent there is surplus energy that is not committed to a forward sales transaction, or the parties are unable to agree on a sales plan for such energy, SCE may only sell such energy into the day-ahead, hour-ahead or real time market. Thus, DWR's agreement to the sales plan is needed under the Operating

[9] D.03-07-072, at 25.

Protocol before SCE is allowed to make sales of surplus power for more than one day in advance.

SCE points out that this requirement conflicts with the Commission's statement that it "sees no reason for DWR to approve any forward sale."[10] SCE recommends that the Commission amend Paragraph III.C, of SCE's Operating Protocol (Exhibit A) to remove the requirement to obtain DWR agreement to its sales plans before it may sell surplus energy more than one day in advance.

PG&E states that, like SCE, it is willing to share sales plans with DWR, and to give DWR access to PG&E's approved procurement plans, which cover surplus sales in addition to other procurement-related activities. PG&E does not believe that DWR "review and approval" should be required before making any forward sales. Consequently, PG&E supports SCE's proposed modifications to Exhibit A, Operating Protocols, Paragraph III C.

DWR states that it is not opposed to the deletion of the requirement that DWR "agree" to a forward sales plan, so long as the Operating Order is modified to include a statement similar to that included in the executed Operating Agreements as follows: "Utility shall pursue surplus sales in a fashion reasonably designed to serve the overall best interests of retail electric customers based on information known or that could have been known by Utility at the time. Utility agrees to include sufficient details in the sales plans to allow DWR to satisfy its financial management and reporting requirements," and that all such sales plans should be submitted to DWR under the Operating Order and its

[10] D.02-12-069, mimeo., page 39.

confidentiality provisions rather than under SCE's procurement plans. Finally, DWR notes that it expects to be able to continue to receive and review sales plans under the Operating Order.

We agree with SCE that the requirement in Paragraph III C of Exhibit A of the Operating Order is inconsistent with the Commission's statement that it "sees no reason for DWR to approve any forward sale." We find SCE's request and DWR's conditions to be reasonable.

3. Surplus Energy Sales from the Integrated Portfolio

D.02-12-069 requires the utilities to act as limited agents of DWR for purposes of managing the DWR contracts within the integrated utility/DWR portfolio, and for purchasing gas associated with DWR contracts. SCE argues that this relationship creates uncertainty in the context of surplus energy sales from the integrated portfolio because of the difficulty in determining whether a given power sale emanates from SCE's resources or from a DWR contract. Under the Commission's adopted "pro rata" protocol, the shares of DWR and SCE power sold in each transaction are not known when the sale is made (or when the power is delivered), because the pro rata shares depend on actual generation, actual loads, and the Independent System Operator (ISO) settlements data – information that is not established until about 90 days after power delivery.

SCE argues that it is commercially impracticable for SCE to sell power to a third party as DWR's limited agent when the quantities attributable to DWR are not known at the time of the sale. SCE is concerned that, if the specific sales quantities attributable to DWR are unknown at the time of the sale, counterparties may question whether SCE is able to act as DWR's limited agent

in the absence of specific assurances from DWR as to each transaction. SCE suggests that to avoid these uncertainties, SCE must be able to represent to the counterparties when it makes surplus sales that SCE is the sole seller and is fully able to implement its obligations under the sales contracts. SCE believes this would require SCE to make the sales using only sales agreements between SCE and the counterparties, rather than sales agreements between DWR and the counterparties. SCE would then allocate the sales revenues pro rata between itself and DWR consistent with the allocation policy approved in D.02-09-053 through appropriate accounting processes. SCE requests that the Commission modify D.02-12-069 to incorporate the following new paragraph:

> "As SCE points out in its Petition, this limited agency relationship presents some practical problems when the utilities make sales of surplus energy from the integrated utility/DWR portfolio. Under the adopted "pro rata" protocol, the shares of DWR and SCE power sold in each transaction are not knowable when the sale is made (or even when the power is delivered), because the pro rata shares depend on actual generation, actual loads, and ISO settlements data – information that is not established until about 90 days after power delivery. Thus, at the time of the sale, the buyer does not know whose power was purchased, who is responsible for collateral when due, whom to bill, and from whom to seek redress in the event of non-performance. In addition, buyers may question whether SCE is able to act as DWR's limited agent in the absence of specific assurances from DWR as to each transaction. To avoid these uncertainties, SCE must be able to represent to the buyers that it is the sole seller and fully able to implement its obligations under the sales contracts. This requires SCE to make the sales using only sales agreements between SCE and the counterparties, rather than sales agreements between DWR and the counterparties. SCE then allocates the sales revenues pro rata between itself and DWR through appropriate accounting processes, consistent with our allocation policies adopted in D.02-09-053. We find SCE's approach reasonable, and we approve it."

PG&E states that, although it recognizes the practical issues created by the sale of surplus energy from the integrated portfolio, it does not believe that SCE's requested modification is necessary. PG&E notes that there is nothing in D. 02-12-069 that dictates whether the utility must use a pair of DWR and utility contracts with counterparties, or a single utility contract. According to PG&E, nothing prevents SCE from using only sales agreements between SCE and the counterparties; therefore, PG&E does not support the modification requested by SCE. DWR also opposes SCE's request.

In adopting a "pro rata" policy for allocation of revenues from surplus sales, we recognize that there exists some uncertainty regarding whose energy is being sold at any given time. The Operating Orders did not specify the type of sales agreement to be used by the utilities in carrying out the responsibilities associated with the Operating Order. We agree with PG&E that there is no need to modify D.02-12-069 and we decline to adopt a specific method as SCE requests. SCE's requested modification is denied.

4. Posting of Collateral

SCE requests that D.02-12-069 be modified to require DWR to provide collateral to counterparties for DWR's approximate share of surplus sales in the event that collateral is required. SCE asserts that it is not equitable for the Commission to require SCE to post collateral for 100% of the portfolio sales when the need to make such sales arises from the allocation of DWR power to the portfolio, and when approximately 30% of the sales quantities are attributable to DWR resources. In addition, SCE believes that requiring SCE to post collateral for quantities attributable to DWR will cost ratepayers more as long as SCE's credit rating remains below investment grade. SCE argues that the least-cost option for ratepayers would be to have the entity with the highest credit rating

(i.e., DWR) engage in the financing needed to make sales associated with DWR's share of the portfolio. SCE requests that the Commission modify D.02-12-069 to require DWR to bear separate responsibility for financing sales from its approximate share (about 30%) of the integrated portfolio, as the Commission did for gas purchases related to DWR contracts. DWR would then provide the counterparties with whatever assurances it needs to, other than having SCE post collateral.

PG&E supports SCE's proposed modification. PG&E states that since DWR energy comprises a significant portion of the integrated portfolio sales for both SCE and PG&E, it is not equitable to require the utility to post collateral for 100% of the portfolio sales. PG&E also agrees with SCE that the least-cost option for ratepayers is to have the entity with the highest credit rating post the collateral. PG&E suggests that, since DWR has a much higher credit rating than PG&E, DWR should be able to post collateral at a lower cost than PG&E.

DWR maintains that due to the "Most Favored Nations" provisions in the DWR contracts, it is not in a position to provide collateral to counterparties of contracts that the utilities may execute. DWR also questions whether there exists a practical mechanism by which such collateral could be provided. DWR urges the Commission to reject SCE's request.

D.02-12-069 directed the utilities to post 100% of the collateral that may be required for forward sales from the integrated utility/DWR portfolio. In doing so, the Commission found that it simply did not make sense for DWR to continue to be responsible for the provision of collateral when DWR is no longer dispatching DWR contracts or making surplus sales. We also stated that requiring the utilities to provide collateral for 100% of the integrated portfolio

was "consistent with our goal of reducing the utilities' reliance on the states' resources."[11] SCE does not provide sufficient justification for modifying our decision, especially in light of DWR's statement that it is not able to provide collateral support for surplus sales due to the "Most Favored Nations" provisions in the DWR contracts. In addition, requiring DWR to provide collateral support would interject DWR back into the surplus sales agreements, which is inconsistent with SCE's request in 3 above, to eliminate the need to include DWR as a signatory on any surplus sales agreements. For the reasons stated above, we deny SCE's request.

5. Data Requirements of Exhibit F

SCE requests that the Commission delete the requirement to provide DWR with certain data delineated in Exhibit F. SCE argues that D.02-12-069 sets forth a number of principles that limit the amount of data DWR should require, but that the data requirements in Exhibit F are inconsistent with these principles. SCE believes that the resulting data requirements impose an unreasonable burden on the utilities and requests that the Commission eliminate the following requirements:

- The requirement for SCE to provide DWR with the detailed hourly and hour-ahead Final Schedule Volumes for long-term contracts.
- The requirement that "Upon the reasonable request of DWR, Utility will provide to DWR any information in respect of Utility that is applicable to the rights and obligations of the Parties under this Agreement or any material information that is

[11] D.02-12-069 at 24.

reasonably necessary for DWR to monitor and manage their risks and perform their fiduciary responsibilities."

- The requirement for SCE to provide DWR with ISO's Preliminary Settlement Statement.
- The requirement to provide the Hourly Distribution Loss Factors.

First, SCE points out that in the discussion responding to DWR's request for "Final Daily Schedule Volumes" on page 50 of D.02-12-069, the Commission states "Although we believe DWR should be able to rely on the monthly invoice and supporting documentation for bilateral contracts provided in the Reconciled Monthly bilateral invoices schedule volumes report to perform the validation, audit and monitoring duties, we will modify Exhibit F to require the utilities to provide the additional information." SCE maintains that with this sentence, the Commission has imposed a significant additional data production requirement without giving any reason for doing so. While SCE may be correct that the decision is confusing, SCE is incorrect in stating that the Commission adopted this requirement without giving any reason. The Commission incorporated this requirement in response to DWR's explanation that different contracts require different information for settlement purposes. Although some contracts settle on meter volumes and may allow DWR to rely on the "Reconciled Monthly bilateral invoices schedule volumes report" to validate and authorize payment, others settle on either hour-ahead schedules or final daily volumes. Based on this explanation, the Commission found that DWR's request for detailed hourly and hour-ahead Final Schedule Volumes was reasonable. We will modify D.02-12-069 slightly, not as requested by SCE, but simply to clarify our decision. We will revise the last sentence of the first paragraph on page 50 of D.02-12-069 to read: "We find DWR's request for detailed hourly and hour-ahead Final

Schedule Volumes reasonable, and we will modify Exhibit F to require the utilities to provide the additional information."

In addition, SCE claims that the requirement, on page F-5 of Exhibit F that "Upon the reasonable request of DWR, Utility will provide to DWR any information in respect of Utility that is applicable to the rights and obligations of the Parties under this Agreement or any material information that is reasonably necessary for DWR to monitor and manage their risks and perform their fiduciary responsibilities" is a "virtually unlimited information requirement" that is inconsistent with the Commission-adopted principles limiting DWR's information requests to data reasonably related to the responsibilities the Commission has allocated to it.

DWR comments that the requirement at issue is a general provision to provide any other information related to rights and obligations of the parties or information that is reasonably required to monitor and manage their risks and perform their responsibilities on a mutual basis. DWR states that it has no intention of frivolously exercising this right, and that any request under this requirement must be reasonable. DWR believes that the absence of such a provision would require the parties to apply to the Commission each and every time, resulting in a much more costly and time-intensive process. DWR also points out that under the Operating Order, SCE holds the same right and that SCE does not request that its same right be deleted. DWR recommends that the Commission deny SCE's request to delete these rights.

SCE has not provided sufficient justification to deny DWR reasonable access to necessary information, access that SCE currently possesses; therefore, we deny SCE's request.

Next, SCE requests that the Commission eliminate the requirement to provide DWR with the ISO's Preliminary Settlement Statement. SCE argues that there is no need for the utility to provide DWR with the Preliminary Settlement Statement because it is only a preliminary document, and because it is the Utility's Final Settlement Statement that is relied on in sending out revenue remittances. SCE contends that this is another example of inconsistency between the limiting principles adopted in the decision and the requirements of Exhibit F.

DWR disagrees and recommends that the Commission reject SCE's request, explaining that the remittance process contemplates a preliminary remittance by the utility and a subsequent true up. DWR states that, on a daily and monthly basis, DWR will receive over 90% of the money due to it through preliminary remittances. According to DWR, SCE's recommendation would result in DWR not receiving any statement supporting these preliminary remittances or allowing DWR to perform any early validation until the final data is available.

We find that, to the extent DWR is receiving preliminary remittances on a daily and monthly basis, it should receive the ISO Preliminary Settlement Statements. We believe that this requirement is consistent with the limiting principles adopted in the decision and we deny SCE's request.

Finally, SCE requests the Commission delete the requirement to provide DWR with Hourly Distribution Loss Factors. SCE states that there are three Hourly Distribution Loss Factors that are already available on SCE's Website - one associated with each of three voltage levels - but that it believes that DWR actually desires the weighted average of the three factors. SCE states that this information does not become available to SCE until at least 38 days following a

given usage day and that, by the time it becomes available, DWR will have already been paid for that day. SCE suggests that the only value it might have to DWR is as an information source for subsequent audits and that if that is the case, SCE is willing to make the weighted average loss factor available as part of the audit process, but is not willing to provide it in support of the remittance process.

DWR maintains that SCE is incorrect in stating that these factors have no value to DWR. DWR states that the payment that DWR would have received would be the preliminary remittance, which is subject to true up based on final figures such as the Hourly Distribution Loss Factors. DWR suggests that, since this information impacts the remittance calculation, it should be provided to the DWR by the utilities on a regular basis.

We agree with DWR that, to the extent this information is necessary to make any necessary adjustments to the preliminary remittances, it should be provided to DWR on a regular basis. We deny SCE's request.

6. Review of Utility Contract Administration

SCE requests that the Commission modify Conclusion of Law 5 to require a final decision in the annual contract administration review proceedings within six months of the date filed. SCE argues that timely review of these proceedings is necessary to prevent them from backing up and creating uncertainty that could negatively impact the utility's creditworthiness.

We decline to adopt SCE's request as it would unnecessarily and inappropriately limit the scope and thoroughness of the Commission's review of utility contract administration. As DWR points out, DWR is relying on the Commission to thoroughly review whether the utilities have complied with the

least-cost dispatch requirements and to address any non-compliance with the terms of the Operating Order. DWR also notes that not only does SCE admit in its filing that much of the final data is not known for 90 days, but the remittance process itself will not be completed or final within a six-month period. DWR also notes that the Commission is likely to expect comments from DWR relative to SCE's compliance with the Operating Order. Given the fact that some of the necessary information may not even be available within the six month time frame SCE would have the Commission issue its decision, we find that expediting our review to meet an arbitrary deadline could result in approval of actions that were unreasonable. We intend to make every possible effort to review utility contract administration on a timely basis; however, based on the above reasons, we deny SCE's requested modification.

7. DWR Credit Criteria

In Exhibit A to the Operating Order approved for SCE in D.02-12-069, Paragraph III C of the Operating Protocols requires that for surplus energy sales to third parties, Utility shall apply prudent credit risk management criteria to ensure that such purchases meet or exceed DWR credit criteria, then consistent with industry accepted credit standards.

SCE states that this requirement creates the need to manage dual credit standards – SCE's credit criteria for its pro rata share of sales, and DWR's credit criteria for its pro rata share of sales. Since SCE's counterparty credit exposure is managed on a net basis for all purchase and sales transactions with the counterparty, SCE believes that this requirement creates unnecessary complexity. SCE suggests that SCE make its own credit criteria known to DWR on a confidential basis, and allow DWR to inform SCE of any objections it may have.

If SCE and DWR are not able to resolve any differences, SCE states that it is willing to submit any disputes to the Commission for resolution.

SCE requests that the Commission modify the first sentence at the top of page A-3 of Exhibit A to read as follows:

> "For surplus energy sales to third parties, Utility shall apply prudent credit risk management criteria to ensure that such transactions are consistent with industry accepted credit standards. Utility shall inform DWR on a confidential basis of the credit criteria it uses. If any disputes arise that cannot be resolved between the parties, either party may raise the issue with the Commission."

DWR prefers a standard that would allow for SCE to provide its credit criteria to DWR for review, and if DWR does not agree, the most conservative criteria will be used.

We agree with SCE that the requirement that results in the need for SCE to manage dual credit standards – SCE's credit criteria for its pro rata share of sales, and DWR's credit criteria for its pro rata share of sales-is unnecessarily complex. Furthermore, eliminating this request is consistent with our findings in Sections 3 and 4, above, which serve to reduce the need for DWR's involvement in surplus sales agreements. We find SCE's proposed modification to be reasonable and fair, in that it includes a mechanism to address any potential future disagreements. Although, SCE could avoid the need to manage dual credit standards simply by using DWR's credit criteria for all surplus sales, we believe SCE has provided us with a better alternative, and we approve it.

Comments on Draft Decision

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 (g) (1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____ and reply comments were filed on _____.

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Julie M. Halligan is assigned ALJ in this proceeding.

Findings of Fact

1. SCE's request to modify D.02-12-069 to state that Commission review of certain purchase and sale activities associated with SCE's administration of the DWR contracts is limited to the Commission's quarterly compliance review of transactions conducted under the utility's approved procurement plans is inconsistent with the Commission's responsibility to ensure that each electrical corporation optimizes the value of its overall supply portfolio, including DWR contracts.

2. SCE's request that the Commission amend Paragraph III C of the Operating Order (Exhibit A to D.02-12-069) to remove the requirement to obtain DWR agreement to its sales plans before it may sell surplus energy more than one day in advance is reasonable because it will eliminate the inconsistency between the Commission's stated intent in D.02-12-069 and the language in Paragraph II C of Exhibit A to D.02-12-069 (SCE's Operating Order).

3. DWR's request to adopt the following statement as an additional revision to Paragraph III C of Exhibit A to SCE's Operating Order is reasonable because it provides additional direction to SCE consistent with the Commission's intent in D.02-12-069: "Utility shall pursue surplus sales in a fashion reasonably designed to serve the overall best interests of retail electric customers based on information known or that could have been known by Utility at the time. Utility agrees to include sufficient details in the sales plans to allow DWR to satisfy its financial management and reporting requirements."

4. D.02-12-069 does not require the utilities to use either a pair of DWR and utility contracts with counterparties or a single utility contract for sales of surplus energy. SCE has not provided sufficient justification or identified any changed circumstances that support modification of D.02-12-069 to specify the type of sales agreement to be used by the utilities for sales of surplus energy.

5. SCE's request that the Commission modify D.02-12-069 to require DWR to provide collateral to counterparties for DWR's approximate share of surplus sales is inconsistent with the Commission's stated goal of reducing the utilities' reliance on the state's resources.

6. SCE has not provided sufficient justification to modify Exhibit F of the Operating Order to limit the data SCE is required to provide to DWR.

7. A mandatory six-month deadline for approving the utilities annual contract administration filings would unnecessarily and inappropriately limit the scope and thoroughness of the Commission's review of utility contract administration.

8. Requiring SCE to comply with one set of credit standards for SCE's pro-rata share of surplus sales and another set of credit standards for DWR's pro rata share of surplus sales is unnecessarily complex and inconsistent with the Commission's desire to reduce the need for DWR's involvement in surplus sales agreements.

Conclusions of Law

1. SCE's request to limit Commission review of residual net short purchases and residual net long sales to the quarterly compliance review of transactions conducted under SCE's approved procurement plan is inconsistent with D.02-09-053, D.02-12-62, and AB 57 and should be denied.

2. Amending Paragraph III C of Exhibit A to D.02-12-069 (SCE's Operating Order) as requested by SCE will give effect to the Commission's intent in D.02-12-069 and should be approved.

3. SCE has not provided sufficient justification to deny DWR reasonable access to necessary information, therefore SCE's request to modify Exhibit F of the Operating Order should be denied.

4. SCE's request to modify D.02-12-069 to require DWR to bear responsibility for providing collateral for DWR's approximate share of surplus sales is inconsistent with the Commission's stated goal of reducing the utilities' reliance on the state's resources and should be denied.

5. The requirement embodied in D.02-12-069 that SCE apply credit risk management criteria that meet or exceed DWR credit criteria should be revised to eliminate unnecessary complexity and reduce the need for DWR's involvement in surplus sales agreements.

6. The revised Operating Order and related exhibits should be approved, and SCE should be ordered to comply with the revised Operating Order and exhibits.

O R D E R

IT IS ORDERED that:

1. The March 3, 2003 Petition for Modification of Decision (D.) 02-12-069 filed by Southern California Edison Company (SCE) is granted in part.

2. Page 50 of D.02-12-069 is modified to revise the last sentence of the first paragraph to read:

> We find the Department of Water Resources' request for detailed hourly and hour-ahead Final Schedule Volumes reasonable, and we

will modify Exhibit F to require the utilities to provide the additional information."

3. The attached Operating Order and related Exhibits, revised as discussed above, are approved and adopted as part of this decision.

4. In all other respects, SCE's March 3, 2003 Petition for Modification is denied.

This order is effective today.

Dated _____, at San Francisco, California.